

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ELLIS DOUGLAS,

Plaintiff,

-against-

9:05-CV-1000
(LEK/DRH)

JOSEPH T. SMITH, SGT. J. RAE,
C.O. M. KETZER, C.O. R. CROSS,
C.O. G. KARASMANOS,
C.O. M. SUTTON, C.O. R. DAVIES,
C.O. MCGUIRE, R.N. SKIES,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on January 22, 2008, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 53).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Homer's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 53) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

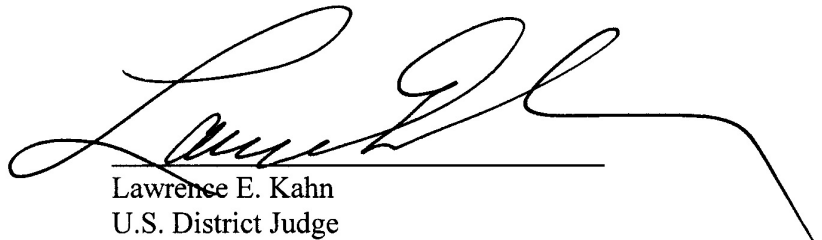
ORDERED, that Defendants' motion for summary judgment (Dkt. No. 41) is **GRANTED in part**, as to Plaintiff's First Amendment claims for mail tampering and retaliation, Fourth Amendment claim for mail tampering, Eighth Amendment claim for deliberate indifference to medical needs, Fourteenth Amendment claim for denial of due process, and as to all claims against Defendants Smith and Skies, and **DENIED in part**, as to Plaintiff's Eighth Amendment claim for excessive force; and it is further

ORDERED, that the Complaint (Dkt. No. 1) be dismissed without prejudice as to Defendant Davies, pursuant to Fed. R. Civ. P. 4(m); and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: February 14, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge